

Magistrate Judge S. Kate Vaughan

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

HARLAN PHILIP JAMES,

Defendant.

CASE NO. MJ23-546

COMPLAINT for VIOLATION

Title 18, United States Code,
Sections 113(a)(3), 113(a)(6), 1153 and
924(c)(1)(A)(i)-(iii)

BEFORE the Honorable S. Kate Vaughan, United States Magistrate Judge,
Seattle, Washington,

The undersigned complainant being duly sworn, states:

COUNT 1

(Assault with a Dangerous Weapon)

On or about August 7, 2023, in Whatcom County, on the Lummi Indian
Reservation, Indian Country as defined by Title 18 United States Code, Section 1151, and
within the Western District of Washington, HARLAN PHILIP JAMES, an Indian, did
knowingly assault another person, John Doe, with a dangerous weapon, that is, a firearm,
with intent to do bodily harm.

All in violation of Title 18, United States Code, Sections 113(a)(3) and 1153.

COUNT 2

(Assault Resulting in Serious Bodily Injury)

On or about August 7, 2023, in Whatcom County, on the Lummi Indian Reservation, Indian Country as defined by Title 18, United States Code, Section 1151, and within the Western District of Washington, HARLAN PHILIP JAMES, an Indian, did knowingly assault another person, John Doe, resulting in serious bodily injury.

All in violation of Title 18, United States Code, Sections 113(a)(6) and 1153.

COUNT 3

(Using a Firearm During a Crime of Violence)

On or about August 7, 2023, in Whatcom County, on the Lummi Indian Reservation, Indian Country as defined by Title 18, United States Code, Section 1151, and within the Western District of Washington, HARLAN PHILIP JAMES, knowingly used and carried a firearm, that is, a Smith and Wesson Military and Police (M&P), .40 caliber semiautomatic pistol, during and in related to a crime of violence, that is, Assault with a Dangerous Weapon, as alleged in Count 1 above, and Assault Resulting in Serious Bodily Injury as alleged in Count 2 above; and knowingly possessed said firearm in furtherance of said crime of violence.

It is further alleged that in the commission of the offense alleged in Count 3, HARLAN PHILIP JAMES brandished and discharged the firearm.

All in violation of Title 18, United States Code, Section 924(c)(1)(A)(i)-(iii).

The undersigned being duly sworn further states:

AFFIANT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed since 2022. I am currently assigned to the Bellingham Resident Agency of the Seattle Division and the FBI's Northwestern Washington Safe Trails Task Force ("NWSTTF"). My primary responsibilities as a Special Agent include investigations involving violent crimes and other federal crimes on the Indian

1 reservations in Northwest Washington. As a Special Agent for the FBI, I have
2 participated in numerous investigations including, but not limited to assault, theft and
3 embezzlement, sexual abuse, and various other criminal violations. During these
4 investigations, I have executed and assisted in the execution of both search and arrest
5 warrants. Prior to becoming a Special Agent, I spent over three years in the accounting
6 industry working as an accountant in the financial reporting department for a private
7 company. I am also a licensed Certified Public Accountant.

8 2. The information set forth in this Affidavit is based on my own personal
9 knowledge, knowledge obtained from other individuals during my participation in this
10 investigation, including other law enforcement officers, review of documents and records
11 related to this investigation, communications with others who have personal knowledge
12 of the events and circumstances described herein, and information gained through my
13 training and experience.

14 3. Because this Affidavit is submitted for the limited purpose of establishing
15 probable cause, it does not set forth every fact that I or others have learned during the
16 investigation.

17 4. This Complaint and Affidavit are being presented electronically pursuant to
18 Federal Criminal Procedure Rule 4.1.

19 **SUMMARY OF PROBABLE CAUSE**

20 5. On the morning of August 7, 2023, at approximately 3:09 a.m., the Lummi
21 Nation Police Department (“LNPd”) dispatch received a report that an adult male,
22 identified herein as “John Doe” to protect his privacy, had been shot at his residence,
23 which is located at 36XX Lummi Shore Drive, Bellingham, Washington and lies within
24 the exterior boundaries of the Lummi Indian Reservation. Doe’s residence is situated on a
25 parcel of land with two single story residential homes located next to each other. A
26 separate detached garage and two additional trailers parked behind the residential homes
27 are also located on the parcel of land (collectively referred to as the “Incident Location”).

1 6. Responding LNPd officers located John Doe inside the residence adjacent
2 to Doe's residence, where Doe's brother and his brother's partner, identified herein as
3 "IB," reside. IB was identified as the 911 caller. Officers observed that Doe had sustained
4 what appeared to be a gunshot wound to his right foot.

5 7. John Doe was interviewed and provided the following information. Doe
6 first heard a loud bang and then heard his bedroom door open. Doe recognized JAMES's
7 voice and noted that his speech was slurred. Doe and JAMES had been lifelong friends
8 and had spent a significant amount of time together, including making rap music
9 together. Doe heard a gunshot and saw a flash of light. After hearing the gunshot, Doe
10 instinctively ran out of his bedroom, past JAMES, then out of his house and into his
11 brother's residence, where he tried to hide. Doe could feel that his foot was numb. Doe
12 explained that JAMES blamed Doe for breaking his thumb in an altercation
13 approximately one month earlier.

14 8. Medical personnel arrived at the INCIDENT LOCATION and rendered aid
15 before Doe was transported to the emergency department at PeaceHealth St. Joseph
16 Medical Center in Bellingham. Doe's medical records reflect that he was diagnosed with
17 and received treatment for multiple right foot fractures, including a fracture of the
18 calcaneus (heel bone), resulting from a gunshot wound.

19 9. Doe's sister lives in a trailer situated behind Doe's brother's residence. She
20 was interviewed and provided the following information. Doe's sister heard three
21 gunshots, one that sounded louder than the other two. After the first gunshot, she looked
22 out the window of her trailer and saw Doe's brother run past her trailer.

23 10. While the LNPd officers were still on scene, Doe's brother walked out of
24 the woods. He was interviewed and provided the following information. Doe's brother
25 heard a car in the driveway and walked out on the front steps of his residence. JAMES
26 and an unknown male approached him. JAMES was upset about Doe having broken
27 JAMES's thumb. JAMES fired one round into the air next to Doe's brother's head. He

1 immediately fled on foot into the woods out of fear and could not hear anything for the
2 next couple of minutes.

3 11. FBI agents responded to PeaceHealth St. Joseph Medical Center to
4 interview Doe, who provided the following information. Doe saw two individuals outside
5 his window and a dark-colored car in the driveway. Doe heard a gunshot outside. Doe's
6 door was kicked in and he heard another shot in the hallway. JAMES came into Doe's
7 room and told Doe that he (Doe) had broken his thumb. Doe noticed that JAMES was
8 slurring his words and thought that JAMES was intoxicated. JAMES was waiving a gun
9 around at Doe and had something on his right hand that looked like a splint. JAMES then
10 shot Doe in the foot. Doe ran past JAMES in the hallway and ran into his residence and
11 told IB to call 911.

12 12. After receiving Doe's consent, law enforcement searched the INCIDENT
13 LOCATION and recovered four .40 caliber shell casings and two projectiles that
14 appeared to be bullets. One casing was found outside Doe's residence near where Doe's
15 brother saw JAMES fire a pistol. The other three shell casings were found in the hallway
16 inside Doe's residence. Of the two projectiles recovered, one was lodged in a wooden
17 stud in the hallway wall, and the other was lodged in the floorboard in Doe's bedroom, in
18 front of the foot of the bed where Doe said he was standing when JAMES shot him in the
19 foot.

20 13. While the INCIDENT LOCATION was being searched, FBI agents located
21 a black Mercedes Benz E-Class, Washington License Plate number BXBxxxx, VIN #
22 WDBJF70J51B21xxxx, and registered to JAMES, which was parked a short distance
23 away. A short time later, officers observed JAMES approaching the vehicle. After
24 JAMES opened the driver's side door, a LNPd officer arrested JAMES. One of the FBI
25 agents surveilling the vehicle approached the front, driver's side window and saw a pistol
26 on the floorboard of the front seat.
27

1 14. After his arrest, JAMES was advised of and waived his Miranda rights.
2 JAMES was interviewed and provided the following information. Prior to JAMES's
3 arrest, he had been drinking at a friend's house. He drank so much that he did not
4 remember anything else that transpired that evening or in the early morning hours the
5 following day. He is a member of the Crip gang. He had not seen Doe for a few months.
6 JAMES denied owning or possessing any firearms.

7 15. The LNPd obtained a tribal search warrant for JAMES's black Mercedes.
8 During the search of the vehicle, agents and officers recovered a black, Smith and
9 Wesson Military and Police (M&P), .40 caliber pistol. The pistol was located by the
10 floorboard on the front, driver's side of the vehicle, inside a holster. The pistol had a
11 magazine with an unknown number of live rounds inside it. Additionally, a live, .40
12 caliber round that was found inside the chamber of the pistol. A .40 caliber shell casing
13 was also found on the floor close to where the pistol was located.

14 16. JAMES was held at Whatcom County Jail following his arrest on tribal
15 charges. While in custody, JAMES placed several recorded, telephone calls. Two
16 noteworthy calls are discussed below. On August 7, 2023, JAMES called an unidentified
17 individual and asked for everything to be taken out of the "whip." Based on my training
18 and experience, I know that a "whip" is a slang term for car or vehicle. On August 8,
19 2023, JAMES called an unidentified individual asking about the car being taken by law
20 enforcement.

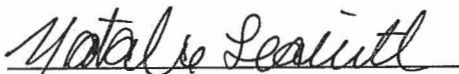
21 17. A Special Agent with the Bureau of Alcohol, Tobacco, Firearms and
22 Explosives (ATF) certified in conducting interstate nexus examinations of firearms has
23 reviewed photos of the Smith and Wesson Military and Police (M&P), .40 caliber pistol
24 seized from JAMES's vehicle. Based on the photos and her training and experience, she
25 determined that the above-referenced pistol is a firearm under federal law.

26 18. As part of the investigation, I have reviewed tribal enrollment documents
27 showing that JAMES is an enrolled member of Lummi Nation, a federally recognized

1 Indian tribe and has an Indian blood quantum of 7/16ths. I have also reviewed land status
2 documents from the Lummi Nation Planning Department showing that Doe's residence
3 lies within the exterior boundaries of the Lummi Reservation.


4 **CONCLUSION**

5 19. Based on the above facts, I respectfully submit that there is probable cause
6 to believe that HARLAN PHILIP JAMES committed the offenses set forth above in this
7 Complaint.

8 
9 NATALIE J. LEAVITT,
10 Complainant
11 Special Agent, Federal Bureau of
12 Investigation

13 Based on the Complaint and Affidavit sworn to before me telephonically, and
14 submitted electronically, the Court hereby finds that there is probable cause to believe the
15 defendant committed the offenses set forth in the Complaint.

16 DATED this 13th day of November 2023.

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19 S. KATE VAUGHAN
20 United States Magistrate Judge
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